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Court Voids Victories In Software Case

By Phil Linsalata

Of the Post-Dispatch Staff

A federal appeals court Tuesday set aside five years of court victories won by St. Louis natives William and Nancy Hamilton in their fight to prove that the U.S. Department of Justice stole their company's computer software.

The U.S. Court of Appeals for the District of Columbia Circuit ruled that the Hamiltons' company, Inslaw, should never have tried its case in U.S. Bankruptcy Court.

The ruling vacated an award of \$7.8 million plus interest and \$1.2 million in legal fees.

It was Bankruptcy Judge George F. Bason who had ruled in 1988 that the Justice Department took the Washington-based company's software through "trickery, fraud and deceit." That ruling, upheld on appeal in U.S. District Court, was set aside Tuesday in a ruling that did not address the Justice Department's conduct.

The court ruled one day before the deadline for the Justice Department to turn over to the Hamiltons copies of all software used in all its agencies. The deadline was ordered to allow the couple to analyze whether the Justice Department had distributed their software illegally.

Stuart M. Gerson, assistant attorney

Inslaw

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general for the Justice Department's civil division, said in a statement that the ruling vindicated the department's view that "this is fundamentally a matter of commercial and contractual disagreement that should have been handled as such."

William Hamilton said, "The ruling doesn't comment on the validity of the findings ... that the government broke the law, stole the property."

"The court's comment is essentially that we came into the wrong court-room. The judges are saying to go back out onto the street — five years and \$6 million in legal fees later — and come in a different door to start from scratch."

"We will do whatever we have to do," he said. "There is no way in the world that the Justice Department is going to be able to get away with this."

The Hamiltons' lawyer, former attorney general Elliot Richardson, said the importance of the case dictated that he and his clients continue to fight.

"What is at stake here is the integrity of the criminal justice system as well as compensation to individuals who have been victimized by government wrongdoing," he said.

The unanimous ruling of the three-member court was written by Judge Stephen F. Williams. The court noted Inslaw's right to sue the Justice Department outside bankruptcy court for theft, contract violations or violations of the Trade Secrets Act, which governs copyrighted materials.

Promis software is used for tracking cases and criminals. Delivery to the Justice Department began under a \$10 million 1982 contract.

Contract disputes erupted between the parties shortly after Hamilton rebuffed a buyout offer from a company controlled by Earl W. Brian, longtime associate of Ronald Reagan and former Attorney General Edwin Meese.

Brian has denied any personal involvement in the buyout attempt.

The Associated Press contributed information for this story.

(Indicate page, name of newspaper, city and state.)

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